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EXHIBIT 4
DATE 3/9/09
SB 250

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March 8, 2009

To: Members of the Judiciary Committee, Montana House of Representatives
From: Cory Swanson, on behalf of the Collegiate Licensing Company
RE: Support for Senate Bill 250

I am writing this letter to urge your support for Senate Bill 250 by Senator Dave Wanzenreid, which will be heard in House Judiciary on Monday, March 9. I cannot attend this hearing because I am counsel on a contested case hearing before the Public Service Commission beginning on Monday morning, so I am sending my testimony in written form.

SB 250 will establish the offense of trademark counterfeiting in goods in Montana. This legislation is needed because there is a growing trend of counterfeited manufactured goods in the United States being marketed as genuine trademarked goods. This trend undermines the value of business items that business owners have worked many years and invested many dollars to develop, market and improve.

This danger has prompted the United States government to pass federal legislation penalizing trafficking in counterfeit goods, and many other states have passed similar model legislation. If Montana does not pass this law, it will be an outlier and a possible haven for counterfeit commerce. I urge you to consider this bill carefully and support its passage so that business owners who trademark their goods can enjoy the protection of having trademarks enforced.

Although I come to you as a representative of a business that deals primarily with collegiate athletic trademark goods, and one that is heavily impacted by counterfeiting, this issue is not confined to only collegiate athletics. Any business that has spent time and money developing a quality product, and that wishes to protect its investment through trademark protection, has a stake in this issue. Consumers are protected when states punish counterfeiting because they learn to trust the quality of products they have come to know and use over time. In order to protect the quality of our commerce, the investments of honest business owners, and the expectations of consumers, please support SB 250.

Attached is an informational sheet produced by the US Chamber of Commerce in cooperation with the International Anti-Counterfeiting Coalition and the International Trademark Association. Please review it and feel free to contact me if you have any further questions on this matter.

Sincerely,



Cory J. Swanson - on behalf of The Collegiate Licensing Company

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International Trademark Association
Reorganizing the Trademark Community since 1973

U.S. Chamber of Commerce, International Anti-Counterfeiting Coalition, Model State Anti-Counterfeiting Bill

The U.S. Chamber of Commerce has partnered with the International AntiCounterfeiting Coalition (IACC) and the International Trademark Association (INTA) in the fight against counterfeiting and piracy in order to create state legislation that will protect consumers and businesses.

Recently counterfeiting of intellectual property has reached an all-time high. Each year, counterfeiters steal hundreds of billions of dollars from legitimate business owners, and defraud state, local, and federal governments of millions more in lost tax revenues. Counterfeiters have put over three-quarters of a million Americans out of work¹ and they put your constituents' health and safety at risk.

Last year the federal government acknowledged the seriousness of this issue when it passed the "Stop Counterfeiting in Manufactured Goods Act." This legislation gets to the heart of the problem and demands that counterfeiters be held accountable for their crimes. Unfortunately many states do not provide similar heightened protections. As a result a counterfeiter prosecuted under state anti-counterfeiting laws will be treated far more leniently than one prosecuted for the same illegal acts under federal law. The U.S. Chamber and the IACC have recognized this issue and are spearheading an effort through to introduce and pass stronger state criminal anticounterfeiting laws.

¹ http://www.cbp.gov/xp/cgov/newsroom/news_releases/archives/legacy/2002/52002/05292002.xml

Accordingly a Model State Anticounterfeiting Statute has been prepared which provides a clear framework for state legislators to protect their constituents and local business and industry from counterfeiters and their illegal products. The Model Statute's most significant features include:

- Bringing State Penalties For Counterfeiting In Line With Federal Standards
18 U.S.C. 2320, the federal law that criminalizes trademark counterfeiting recognizes the serious threat posed to consumers, businesses, and government by providing severe penalties for violations of the law. Federal law provides for prison sentences of up to 20 years with additional fines of up to \$15,000,000, depending upon the level of the offense.
- Enhanced Penalties for Crimes Involving Threats to Health, Safety, and Welfare
Counterfeit goods such as pharmaceuticals, electronics, food, and clothing can pose substantial risks to public health and safety. The Model Statute provides a felony-enhancement for any criminal counterfeiting offense that results in the actual or attempted injury or death of another person (similar to pending federal legislation) allowing for sentences of up to 30 years in prison.
- Mandatory Forfeiture, Destruction, and Restitution
Current law in most states provides for the **discretionary** destruction of counterfeit goods themselves. Similar to the recently enacted federal law, the Model Statute mandates the destruction of the counterfeit goods, the materials and implements used to produce those illicit products, **and** also provides for the forfeiture of any property used to aid the commission of those illegal activities. Furthermore, the Model Statute also permits the forfeiture of any proceeds of the individual's illegal acts, and requires any individual convicted of a counterfeiting offense to pay restitution to the victims as is the case under current federal law.

These provisions when taken together, hit counterfeiters where it hurts the most – in their deeply lined pockets. Send a strong state wide message - counterfeiters not welcome here. The U.S. Chamber and the IACC urge you to take further steps to protect your constituents and your state's economy by introducing the Model Anticounterfeiting Statute in your state.